



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on October 9, 2012

Date of Meeting: February 7, 2012

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:35 p.m., on Tuesday, February 7, 2012, all members having been notified of the time and place thereof.

1. **ROLL CALL**

The meeting was called to order by Mayor Rothschild and upon roll call, those present and absent were:

Present:

Regina Romero
Paul Cunningham
Karin Uhlich
Shirley C. Scott
Richard G. Fimbres
Steve Kozachik
Jonathan Rothschild

Council Member Ward 1
Council Member Ward 2
Vice Mayor, Council Member Ward 3
Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Richard Miranda
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Otis Brown, Siloam Freewill Church, after which the Pledge of Allegiance was presented by the entire assembly

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 50, dated February 7, 2012, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

Current event reports were provided by Council Members Romero, Cunningham, Scott, Fimbres, Kozachik, and Vice Mayor Uhlich. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 51, dated February 7, 2012, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Current event report was given by Richard Miranda, City Manager. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager's communication number 53, dated February 7, 2012, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda. Liquor License Application(s)

b. Liquor License Application(s)

New License(s)

1. El Coqui Creative Caribbean Cuisine, Ward 6
6151 E. Broadway Blvd.
Applicant: Joseph Hiram Gonzalez
Series 12, City 102-11
Action must be taken by: February 19, 2012

Staff has indicated the applicant is in compliance with city requirements.

Person Transfer

2. 7-Eleven #13035C, Ward 5
1902 S. Alvernon Way
Applicant: Prem Hari Khatri
Series 9, City 103-11
Action must be taken by: February 18, 2012

Staff has indicated the applicant is in compliance with city requirements.

c. Special Event(s)

1. Jewish Federation of Southern Arizona, Ward 2
3800 E. River Rd.
Applicant: Stuart J. Mellan
City T130-11
Date of Event: March 31, 2012
(Honoring President/CEO of Jewish Federation)

Staff has indicated the applicant is in compliance with city requirements.

2. Rialto Theatre Foundation, Ward 1
Meyer Ave. between Telles St. and Council St.
Applicant: Douglas William Biggers
City T131-11
Date of Event: March 3, 2012
(Festival en el Barrio/Fundraiser)

Staff has indicated the applicant is in compliance with city requirement

(Item was continued, at the request of the Applicant, to the March 6, 2012 meeting)

d. Agent Change/Acquisition of Control

NOTE: There are no application(s) for agent changes scheduled for this meeting.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1-5b2 and 5c1 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Rothschild announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

Mayor Rothschild also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

Comments were made by:

Keith Van Heyningen	Roger Score	Ron Walters
Shannon Cain	Roy Warden	Ken Johnson
Chelsea Barberi	Jessica Schuman	Robert Reus
Mikki Niemi	Maria Malice	Fran Armstrong

A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

7. CONSENT AGENDA – ITEMS A THROUGH C

Mayor Rothschild announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

a. APPROVAL OF MINUTES

1. Report from City Manager FEB07-12-58 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of September 7, 2011

b. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY SUPERIOR COURT FOR PROVIDING JURORS TO TUCSON CITY COURT

1. Report from City Manager FEB07-12-49 CITY WIDE
2. Resolution No. 21856 relating to Intergovernmental Agreements; approving and authorizing the execution of Amendment No. 6 to the Intergovernmental Agreement between the Pima County Superior Court and the Tucson City Court for providing jurors to the Tucson City Court; and declaring an emergency.

c. GRANT APPLICATION: TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE LEAD-BASED PAINT HAZARD CONTROL PROGRAM

1. Report from City Manager FEB07-12-57 CITY WIDE

2. Resolution No. 21858 relating to Housing and Community Development; approving and authorizing the submission of an Application for funding to the United States Department of Housing and Urban Development (HUD) for the Lead-Based Paint Hazard Control Program; and declaring an emergency.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – c be passed and adopted and the proper action taken.

8. PUBLIC HEARING: TUCSON CODE (CHAPTER 6) RELATING TO THE JOINT CITY OF TUCSON/PIMA COUNTY OUTDOOR LIGHTING CODE 2012 EDITION

Mayor Rothschild announced City Manager's communication number 56 dated February 7, 2012, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the 2012 Edition of the City of Tucson/Pima County Outdoor Lighting Code. He said staff wanted to make a brief presentation before beginning the public hearing.

Ernie Duarte, Planning & Development Services Department Director, gave a brief presentation explaining the process used for adopting the 2012 Outdoor Lighting Code. He stated that during the Study Session, there were some items raised that staff wanted to incorporate into the version of the Outdoor Lighting Code presented to the Mayor and Council.

Michael Rankin, City Attorney, stated he would read, for the record, the changes discussed during the Study Session.

- Page 1, Exhibit A to the Ordinance, date change in the title from 2011 to 2012.
- Page 14, Section 501.6, strike the second sentence beginning with, "Multi-tenant signs shall be turned off at curfew times listed in Table 501.5 regardless of business activity."

Mr. Rankin noted that staff would return in approximately thirty days to discuss further modifications to this section that might be required.

- Page 15, Section 601.3.3, the cross reference to Section 403.4 should be changed to 403.5.

Mr. Rankin stated that Council Member Kozachik raised a couple other questions he wanted to address with respect to several other sections of the proposed code.

- Section 102.2, on page 2, was standard code language that created a default if there was more than one provision that existed in state, county or local law,

then the default was the most restrictive code that applied. He referred to Section 102.7, which allowed for the building official to have the ability to make determinations that the Code was satisfied by alternative means and methods of construction. He said that flexibility was still within the Code, but the language had the default going to the more restrictive code, which was standard code language.

- Section 102.4.2 on page 3, the question was asked if a wall was added to or modified on a residence, did that trigger the requirement to file a site plan. He stated it did not; it was for additions or modifications either to the existing uses or the lighting; adding a wall to the residential use did not change the existing use. If the use itself was expanded, then those triggers applied.
- Section 103.2.1, on page 4, the question asked was what happened if the five business days expired from the date of submission of the request for temporary exemption to act. He said it did not provide for an automatic denial as he saw it, but it did required the jurisdiction to act within the five days, either with the approval, disapproval or request for more information.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

The following people spoke in support of City of Tucson/Pima County Outdoor Lighting Code, 2012 Edition: Timothy Beers, Kitt Peak National Observatory Director, Scott Kardel, International Dark Sky Association, Connie Walker, National Optical Astronomy Observatory Education Specialist, James Carpenter, Arizona Sign Association and International Sign Association, Emilio Falco, Whipple Observatory Astronomer and Science Director, Elizabeth Alvarez, Kitt Peak National Observatory, and Dan Brocious, Smithsonian-Whipple Observatory.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild asked the City Clerk to read Ordinance 10963 by number and title only.

Ordinance No. 10963 relating to Outdoor Lighting; repealing Ordinance No. 10135 adopted March 22, 2005 which enacted the 2005 Edition of the City's Outdoor Lighting Code and replacing Ordinance 10135 with the City of Tucson/Pima County Outdoor Lighting Code except for those provisions designated for use by Pima County and amending the Tucson Code Chapter 6, Buildings, Electricity, Plumbing and Mechanical Code, Article IV Electricity, Division 2 Outdoor Lighting Code, Section 6-101 Outdoor Lighting Code adopted by replacing the provisions of Section 6-101 with the City of Tucson/Pima County Outdoor Lighting Code except for those provisions designated for use by Pima County; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10963 as amended.

Additional comments were made by Council Members Kozachik and Cunningham.

9. ZONING: (SE-11-39) CRICKET - RENAISSANCE DRIVE, I-1 ZONE, WIRELESS COMMUNICATION FACILITY, SPECIAL EXCEPTION LAND USE, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION (CONTINUED FROM THE MEETING OF JANUARY 18, 2012)

Mayor Rothschild announced City Manager's communication number 52, dated February 7, 2012, was received into and made part of the record. He also announced this was a Special Exception Land Use request for property located south of Valencia Road and west of Interstate 19. He said the Zoning Examiner and staff recommend approval of the special exception land use.

Mayor Rothschild asked if the applicant or representative were present and if they wished to speak on the item and if they were agreeable to the proposed requirements.

Someone in the audience (name unknown) responded affirmatively.

Mayor Rothschild asked the City Clerk to read Ordinance 10957 by number and title only.

Ordinance No. 10957 relating to Zoning; a special exception land use - Wireless Communication Facility Use - SE-11-39 Cricket - Renaissance Drive - located south of Valencia Road and west of Interstate 19; approving with conditions the construction of 15 foot extension to existing monopole in the I-1 zone - case SE-11-39; and setting an effective date.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 7 to, to pass and adopt Ordinance 10957.

10. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR THE SILVERBELL ROAD, GRANT ROAD TO INA ROAD PROJECT

Mayor Rothschild announced City Manager's communication number 55, dated February 7, 2012, was received into and made part of the record. He asked the City Clerk to read Resolution 21857 by number and title only.

Resolution No. 21857 relating to Transportation; authorizing and approving the First Amendment to the Intergovernmental Agreement for transportation funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for the Silverbell Road - Grant Road to Ina Road Project; and declaring an emergency.

It was moved by Council Member Romero, duly seconded, to pass and adopt Resolution 21857.

Tony Paez, Transportation Interim Director, gave a brief presentation and background regarding the request to amend the Intergovernmental Agreement (IGA). He stated the subject project was 7.5 miles that lied within three jurisdictions; the Town of Marana, unincorporated Pima County and the City of Tucson. He said the project was phased with implementation to occur in the second period of 2012-2016 and in the fourth period of 2022-2026.

Mr. Paez commented that the first segment was Grant Road to Camino del Cerro and the second segment was Camino del Cerro to Ina Road. He said the City previously received \$3.23 million for planning and preliminary design work for the entire corridor. Separate agreements were not needed since Regional Transportation Authority (RTA) funding was identified in the City's Pima Association of Governments (PAG) Transportation Improvement Program (TIP).

Mr. Paez stated that RTA, via this agreement and subsequent amendments has agreed to pay one hundred percent of all planning and archeological recover costs using regional funds involving all jurisdictions. He said each jurisdiction was responsible for executing individual agreements with the RTA upon allocation of construction funding.

Mr. Paez said that archeological experts estimate the total cost of the recovery effort was approximately \$12 million; this was considered to be a conservative estimate.

Mr. Paez also commented that the 2005 RTA cost estimate versus the anticipated funding showed an apparent initial shortfall of approximately \$5 million. The City's pro rata share of the initial funding gap was estimated at \$2 million; however after a value analysis was conducted, \$13 million was identified as potential savings that could mitigate these gaps and unexpected archeological costs. He said actual budget savings would not be known for several years.

Mr. Paez stated that impact fees were included in the project; \$8 million for the City of Tucson and \$6.4 million from Pima County. He said it was important to know that none of this funding contribution was required until construction phasing was allocated. He said the first phase of construction was not expected until 2016; therefore the City's current impact fee cash balance was sufficient to meet local match requirements.

Mr. Paez said Amendment #1, in the amount of \$4 million, was necessary to begin archeological research work. Later IGA amendments would address the rest of the archeological recovery work, right-of-way acquisition, and design improvements.

Council Member Romero asked how many miles of the 7.5 mile project lied within the City of Tucson; staff responded about half.

Council Member Romero asked if that was the case, why the City was contributing \$8 million dollars of impact fees versus Pima County's \$6.4 million.

Andrew McGovern, Transportation Department Engineer Manager, stated that in the development of the RTA, back in 2005, the various jurisdictions met and negotiated with each other and the RTA what their local match would be for each particular corridor. He said Silverbell was negotiated with the \$8 million from the City and the \$6.4 million from the County. He stated it was not necessarily broken down according to the map lines. He commented that an example that went the other way was Houghton Road. Of the thirteen miles, the City had to contribute \$18 million and the County \$47 million.

Council Member Romero stated that, according to the materials she received, the Silverbell Road project had an initial funding shortfall of approximately \$5 million and there was a potential funding gap estimated at \$2 million for the City, followed by another comment that a value analysis was conducted and the shortfall could be \$13 million or there might not be any shortfall at all. She asked if she was correct in what she understood.

Mr. McGovern answered in the affirmative; it was a long way of saying that they were not sure if there would be a shortfall. However, he said, staff had already gone to the region at the Pima Association of Governments (PAG) level to secure \$3 million of regional Highway User Revenue Funds (HURF) available in FY 2016 for the project. He said staff has already laid the ground work to cover the potential shortfall.

Council Member Romero asked if the funds were to mitigate the City from having to use their impact fees or general funds to cover the shortfall.

Mr. McGovern stated that the \$3 million of HURF funds was on top of what the City already had to contribute. He said in the Silverbell project, all jurisdictions had to contribute their share of the local match to the project. In other words, the \$3 million was to help cover the \$2 million funding gap.

Mayor Rothschild asked where the \$3 million currently stood, if the funds had been authorized, and if not, what happened.

Mr. McGovern replied it was in the PAG Transportation Improvement Program (TIP) in FY 2016 approved by the Regional Council for the Silverbell Road project. He said the funds had been authorized to a degree. He stated that each year the State of Arizona had to approve what was allocated. Every year of the TIP was dependent upon the State allocating funds for that year. If no funds are allocated, no projects are done. He said the Region's funding sources would dry up; which, to his knowledge, had never happened.

Council Member Romero asked how important the project was to residents of the area. She also asked about the archeological work in the area.

Mr. McGovern responded that it was very important. He said they had a very successful citizen committee process which resulted in the completion and approval of the design concept report. He commented whenever there was a gridlock on Interstate 10 due to an accident or construction, the only outlet for most people was Silverbell Road which badly needed to be widened. He stated the residents of the area were fully supportive of the project. He also stated that previous projects along Silverbell had encountered archeological deposits in Marana, as well as within the City.

Council Member Romero stated the one sentence she was concerned about in the IGA was that the estimated construction costs included work for utility relocation. She asked if staff knew how much the cost would be to Tucson Water (TW) and if it was part of their Capital Improvement Plan (CIP).

Mr. McGovern replied that only fifteen to thirty percent of the plans had been prepared. He said it was really just laying out the roadway on the surface; work had not begun to look underneath the ground and TW had not yet had the opportunity to see what impacts there were to the system.

Andrew Quigley, Assistant City Manager, replied to the part of the question regarding Tucson Water's budget. He said TW worked in conjunction with the Tucson Department of Transportation (TDOT) as they put together their CIP; they look one to two year out. He said bond funds would be used to complete any relocation. He stated Mr. McGovern was correct in that if there was only fifteen percent of the design complete, it needed to get past thirty percent before looking at the actual alignment. He said TW would not look at allocating the money until two or three years out.

Mr. Quigley stated what TW also did not know were the impacts of the archeological findings which could cause TW and the construction team to do things differently on the alignment. He said a lot of what needed to be done depended on the results of the archeological work.

Council Member Romero asked if the potential amount of the City's commitment to the financial end of the project was \$8 million of impact fees, plus an additional \$2 million estimated funding gap.

Mr. McGovern stated that with what staff knew at this time, it was their best guess at what the overruns would be.

Council Member Cunningham asked for clarification in that what the Mayor and Council were being asked to approve was another \$2 million on top of the \$8 million dollars and then also move water lines.

Mr. McGovern replied that, at the evening's meeting, the Mayor and Council were being asked to approve the amendment to the IGA asking the RTA to allocate to the City of Tucson \$4 million to get the archeologists on board.

Mayor Rothschild asked for clarification on the \$4 million.

Mr. McGovern said it was for the City to begin the archeological recovery work; get the archeologists on board and consult with the Corp of Engineers and the State of Arizona Historic Preservation Office. He said it was RTA monies coming to the City of Tucson.

Mr. Quigley responded that part of the RTA agreements were that TW paid for utility relocations on RTA projects. He said this has always been the case since 2006 when the RTA board approved the change.

Additional comments and concerns were made by Council Member Kozachik regarding funding by the RTA, cost overruns, archeological work, HURF dollars, utility relocation costs, and SB 1525. He asked the City Attorney how SB 1525 played into the impact fee issue.

Michael Rankin, City Attorney, responded that SB 1525 did play into the impact fee issue in the sense that when the City redid their impact fees pursuant to the statute, the City needed to ensure that it was done based on a plan, study and formula required under the new statutory requirements. He said the category of impact fees remained as an authorized type of impact fee and the City, under the new legislation, should be able to continue assessing and collecting impact fees for those purposes.

Discussion continued and additional comments were made by Council Member Romero regarding funding issues. She stated she wanted to give staff additional direction.

Council Member Romero withdrew her initial motion and made a new motion.

It was moved by Council Member Romero, duly seconded, to direct the City Manager and Director of Transportation to work together with the Regional Transportation Authority to further clarify and refine the City's commitments to the Silverbell Road project.

Mayor Rothschild asked for clarification on the proposal at hand. He asked if it was solely to authorize the RTA to spend \$4 million for archeology work. He also asked if it obligated the City to anything else in the proposal or that additional funds be spent by the City.

Mr. McGovern explained that it was to authorize the City of Tucson to accept \$4 million from the RTA to begin the archeology work. He said the proposal did not obligate the City to anything else.

Mayor Rothschild asked if it was important for the Mayor and Council to act on the item that evening as opposed to receiving additional information within the next thirty days.

Mr. McGovern stated that the RTA Board approved the IGA last summer and the City had been attempting to have it approved by the Mayor and Council so that the archeological work could begin. He said, on the best case scenario, would take twenty-four months, pushing the project to 2014. He stated, fortunately, the City could concurrently do any roadway design needed and be ready for construction before the May 2016 deadline.

Additional comments and viewpoints regarding the project were made by Vice Mayor Uhlich and Council Member Kozachik. Discussion of a time frame to return with additional information was held and Council Member Romero asked staff what they thought was a good time frame.

Richard Miranda, City Manager, responded that in dealing with the RTA and the enormity of the issue, he stated he suspected Gary Hayes, RTA Executive Director, had to provide an agenda item to the Regional Council so that the issue could be discussed. He stated he knew they were not meeting within the next 30 days, but could begin discussions with Mr. Hayes to provide the platform.

Mr. Miranda said he felt it was important to note that, because this was a regional contract with multiple jurisdictions, there had to be discussions on many levels to forward what the City was asking for. He said he did not see the City having an answer until sometime in March, but would take the direction from the Council, talk with Mr. Hayes, set up the meetings and go from there.

Discussion continued and additional comments were made by Council Member Scott regarding Houghton Road and voter approved projects. She asked if there was ever any major road project that had its entire funding secured on the outset.

Mr. McGovern replied that ideally, that would be the case. He said in actuality and practice, especially dealing with a five-year budget, there was the tendency to begin a project and have the funding laid out over the years.

Discussion continued. Additional comments were made by Council Members Scott, Romero and Kozachik regarding the RTA voter approved projects.

Council Member Fimbres called for the question.

The motion to direct the City Manager and Director of Transportation to work together with the Regional Transportation Authority to further clarify and refine the City's commitments to the Silverbell Road project was passed by a voice vote of 7 to 0.

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 54, dated February 7, 2012, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Vice Mayor Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment(s) of Susy Morales, as alternate member in the Green Space-Urban Heat Island category of the Climate Change Committee (CCC), Norman Ross and Bill Pakinkis, representing the Arizona Veterans Hall of Fame, Bob Day, representing Missing in America Project and Terry Byron, representing the Marin Corp League, Marana Night Hawk 72 Detachment, to the Veterans' Affairs Committee (VAC), James Vogelsberg to the Pima County Flood Control District Advisory Committee (FCDAC) and the reappointment of Lucinda Hughes-Juan to the Pima County/Tucson Women's Commission (PCTWC).

Mayor Rothschild asked if there were any personal appointments to be made.

Council Member Cunningham announced his personal appointment(s) of Ted Prezelski to the 2012 Redistricting Advisory Committee (RAC).

12. ADJOURNMENT: 7:31 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, February 15, 2012, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 7th day of February 2012, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:yl:rm